



FISCAL MEMORANDUM

HB 794 - SB 855

April 18, 2023

SUMMARY OF BILL AS AMENDED (007904): Restructures the funding and administration of portions of the Electronic Monitoring Indigency Fund (EMIF). Establishes, subject to annual appropriations, a grant program within the EMIF to assist local governments with up to 50 percent of the eligible costs for transdermal monitoring devices, global positioning monitoring devices, or other alternative alcohol or drug monitoring devices (alternative devices).

Requires the Office of Criminal Justice Programs (OCJP) within the Department of Finance and Administration (F&A) to develop and administer the program.

Requires a person who has been ordered to wear an alternative device and has been determined by the court to be indigent to pay a minimum of \$30 per month for the service of the alternative device, and the remainder of such costs to be paid from the EMIF up to an additional \$170. Establishes criteria and process to determine indigency. Requires alternative device providers to submit claims and invoices to local governments for reimbursement for eligible costs for indigent clients. Caps the total amount payable to a provider at \$200 per month including the defendant's portion. Establishes that a provider is not required to provide services if the defendant fails to pay the defendant's portion of the costs if certain requirements are met. Requires each local government participating in the alternative device account of the EMIF to administer, process, and pay its own claims submitted by alternative device providers for an indigent person's eligible costs. Establishes new requirements for ignition interlock and alternative device providers regarding the process by which the providers submit claims and invoices to the relevant authorities, including attesting to and ensuring the truthfulness and accuracy of the claims. Establishes that a provider who knowingly submits fraudulent or inaccurate information on such claims could be liable under the *False Claims Act*. Establishes other requirements regarding the administration of the EMIF.

Requires the State Treasurer (Treasury), in consultation with F&A to report, on or before February 1 of each year beginning in 2024, to the General Assembly on the activities of the EMIF. Establishes that the EMIF is subject to examination and audit by the Comptroller of the Treasury (Comptroller).

FISCAL IMPACT OF BILL AS AMENDED:

**Increase State Revenue – Up to \$100,000/Office of Criminal Justice Programs/
FY23-24 and Subsequent Years**

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**Increase State Expenditures – Up to \$100,000/
Electronic Indigency Monitoring Fund/FY23-24 and Subsequent Years**

Other Fiscal Impact – A recurring decrease in state expenditures of an unknown amount from the Electronic Indigency Monitoring Fund in FY23-24 and subsequent years.

The Governor’s proposed budget amendment for FY23-24, line item 147, recognizes a recurring state expenditure to the General Fund in the amount of \$1,000,000 to the Office of Criminal Justice Programs within the Department of Finance and Administration.

Assumptions for the bill as amended:

- Based on information provided by the Treasury, there is no personnel dedicated solely to the management of the alternative devices fund. Therefore, shifting responsibility for administration of the alternative device account in the EMIF to the F&A will not result in a decrease in workload sufficient to reduce any full-time-equivalent positions or any other significant fiscal impact to the Treasury.
- According to F&A, any increase in expenditures required for administering the grant program will be extracted from the annual state appropriation for the program. F&A will not require additional positions to administer the grant program. The amount required will be dependent on the activity of the fund as determined by the number of claims each year, but is not expected to exceed \$100,000 in any given year. Therefore, there will be an increase in revenue to the OCJP estimated to be up to \$100,000 in FY23-24 and subsequent years.
- Because the estimated \$100,000 required by the OCJP is assumed to be extracted from the annual state appropriation to the EMIF, there will be an estimated increase in expenditures to the EMIF of up to \$100,000 in FY23-24 and subsequent years.
- Any increase in administrative burden to local governments related to processing claims and issuing payments to providers is assumed to be absorbed within existing resources.
- Any fiscal impact to F&A to assist the Treasurer in the production of the report can be accomplished with existing staff and resources.
- The EMIF is currently audited by the Comptroller within Treasury’s annual audit. To codify the examination and audit will not substantially impact the Comptroller’s operations.
- The proposed legislation is not estimated to result in a significant additional number of convictions for perjury or violations of the *False Claims Act* to impact state or local expenditures or revenue related to fines or incarceration.
- Capping the total amount payable to the provider at \$200 per month is not expected to significantly impact the EMIF.
- Requiring indigent individuals to pay \$30 of any monthly costs associated with alternative devices, and authorizing providers to discontinue services if they do not, is assumed to result in a recurring decrease in state expenditures from the EMIF of an unknown amount in FY23-24 and subsequent years. This is because it is assumed that

some services will be terminated for failure of an indigent person to pay the required \$30, which will result in a reduction of invoices to the state for the remaining portion of the costs for such services.

- The Governor's proposed budget amendment for FY23-24, line item 147, recognizes a recurring state expenditure to the General Fund in the amount of \$1,000,000 to the Office of Criminal Justice Programs within the Department of Finance and Administration.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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